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Letter dated 1 March 2007 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report of Vanuatu submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ricardo Alberto **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 22 February 2007 from the Permanent Mission of Vanuatu to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Republic of Vanuatu to the United Nations presents its compliments to the Chairman of the Committee and, in accordance with Security Council resolution 1373 (2001), Vanuatu is pleased to submit its second report to the Committee (see enclosure).

Enclosure

Report of the Republic of Vanuatu on actions taken by the Government to implement Security Council resolution 1373 (2001)

Introduction

The Government of Vanuatu is fully committed to the international campaign to prevent, suppress and combat terrorism and related activities. This commitment is demonstrated by Vanuatu's active participation (at both Ministerial and official levels) in the work of the Pacific Islands Forum (particularly its Regional Security Committee), the Asia Pacific Group on Money-Laundering, and other relevant international law enforcement and security related bodies.

Vanuatu has a comprehensive legislative framework in place criminalizing terrorist related activity, and its government continues work to develop the border security systems, intelligence gathering and coordination capabilities necessary to implement this legislation.

Legislative measures

The primary legislative mechanism in Vanuatu related to counter-terrorism is the *Counter Terrorism and Transnational Organised Crime Act No. 29 of 2005 (CTTOC)* which commenced effect on 24 February 2006. The Act makes it an offence to:

- carry out, threaten or assist in, or to omit acts to prevent the commission of terrorist acts (punishable by up to 25 years imprisonment and/or a fine of up to VT 125 million);
- provide or collect any property (including funds) intending, knowing or having reasonable grounds to believe that it will be used to carry out a terrorist act (punishable by up to 25 years imprisonment and/or a fine of up to VT 125 million);
- knowingly make available property, or other financial or related services to, or for the benefit of a terrorist group (punishable by up to 20 years imprisonment and/or a fine of up to VT 100 million);
- deal with terrorist property (imprisonment for up to 20 years and/or a fine of up to VT 100 million);
- harbour persons committing terrorist acts (imprisonment for up to 20 years and/or a fine of up to VT 100 million);
- provide weapons to terrorist groups (imprisonment for up to 20 years and/or a fine of VT 100 million);
- recruit persons to be members of terrorist groups or to participate in terrorist acts (imprisonment for up to 20 years and/or a fine of VT 100 million);

In addition, the Act contains other offences implementing a number of United Nations Counter Terrorism Conventions. These include:

- the placement, discharge or detonation of an explosive or lethal device in a public place, building or facility with the intention of causing death, serious

bodily injury or damage to property. This offence is punishable by imprisonment for up to 25 years and/or a fine of up to VT 125 million, or both;

- participation in an organized criminal group (punishable by imprisonment of up to 20 years and/or a fine of up to VT 100 million, or both);
- the murder, kidnapping or attack (including threats of such acts) of an internationally protected person (punishable by up to 20 years imprisonment and/or a fine of up to VT 100 million, or both);
- hostage taking (punishable by up to 20 years imprisonment and/or a fine of up to VT 100 million, or both);
- the import, export, or transporting of nuclear material within Vanuatu (punishable by up to 25 years imprisonment and/or a fine of up to VT 125 million);
- hijacking, punishable by up to 20 years imprisonment and/or a fine of up to VT 100 million;
- people smuggling and trafficking, punishable by up to 15 years and/or a fine of up to VT 75 million;
- producing, providing or possessing fraudulent travel documents, punishable by up to 10 years imprisonment and/or a fine of up to VT 50 million.

The Act also contains provisions related to the boarding, search and detention of craft, extraterritorial jurisdiction over certain offences, the exchange of information and imposing requirements on financial institutions to disclose suspicious transactions. Finally, the Act contains mechanisms for the forfeiture and management of suspected terrorist assets.

Since the *CTTOC* commenced effect in February 2006 no cases have been identified by authorities in Vanuatu requiring investigation or prosecution for offences contained in the Act. However, authorities continue to place a high priority on the investigation and prosecution of any suspected offences and on improving their operational readiness to enforce the legislation.

In addition to the CTTOC other legislation relevant to the implementation of UNSCR 1373 (2001) is:

- *The Financial Transactions Reporting Act No. 33 of 2000;*
- *The International Banking Act 2002;*
- *The Financial Institutions Act 1999;*
- *The Proceeds of Crime Act No. 13 of 2002;*
- *The Mutual Assistance in Criminal Matters Act No. 14 of 2002;*
- *The Extradition Act No. 16 of 2002*

The *Financial Transactions Reporting Act No. 33 of 2000* (FTRA) is the primary legislative vehicle that imposes requirements on financial institutions relating to the detection and reporting of transactions for anti-money-laundering (AML) and counter financing of terrorism (CFT) purposes. These include obligations relating to customer due diligence, record keeping, transaction monitoring and suspicious transaction reporting, originator information on wire

transfers, and provide for the establishment and enforcement activities of a Financial Intelligence Unit (FIU).

The FTRA has been amended recently to reflect more stringent international standards regarding AML/CFT requirements. The *Financial Transactions Reporting (Terrorism Amendment) Act No. 2 of 2002* imposes a requirement on financial institutions to report transactions suspected of being related to terrorists, and includes within the definition of "terrorist organisation" terrorists prescribed by the Minister of Justice in Regulations issued under the CTTOC.

The *Financial Transactions Reporting (Amendment) Act No. 28 of 2005* that came into force on 24 February 2006 also contains key elements of Vanuatu's AML/CFT framework. These include:

- The extension of coverage of FTRA requirements to the full range of financial and non-financial institutions required by FATF standards;
- Requirements on institutions to report transactions suspected of being relevant to:

  (a) the detection, investigation or prosecution of a person for a money-laundering offence, a financing of terrorism offence or any other serious offence; or

  (b) the commission of a money-laundering offence, a financing of terrorism offence or any other serious offence; or

  (c) an act preparatory to a financing of terrorism offence; or

  (d) the enforcement of the FTRA, the *Proceeds of Crime Act No. 13 of 2002* or any other Act prescribed by regulation.
- Requirements on institutions to establish and maintain internal procedures to implement the reporting, customer identification, record keeping and retention requirements under the Act;
- Expressly overriding non-disclosure and secrecy obligations;
- Prohibiting the opening or operation of accounts with false, fictitious or incorrect names;
- Customer identification and verification requirements;
- Obligations to provide originator information on electronic funds transfer;
- Monitor transactions and conduct ongoing Customer Due Diligence (CDD) requirements;
- Requirements to keep and retain records;
- Conferring investigative and enforcement powers on the FIU.

The *International Banking Act 2002* establishes a specific licensing and supervisory framework for the seven (7) international banks operating in Vanuatu. In addition, it imposes physical presence, record keeping, and reporting requirements on these institutions. The Act provides the Reserve Bank of Vanuatu, as supervisor, with monitoring and enforcement powers and creates a number of offences for breaches of the Act.

The *Financial Institutions Act 1999* and related prudential guidelines impose similar obligations on domestic banks and other financial institutions. The Reserve Bank supervises and monitors local banks and deposit taking institutions for compliance with this Act. Other regulated institutions, including insurance and trustee companies are regulated by the Vanuatu Financial Supervisory Commission (VFSC) under related legislation.

Proceeds of Crime Act No. 13 2002

The Act established a regime for the restraint and forfeiture of assets used in, or derived from, criminal activity. With an exception in the case of restraining orders convictions are required for predicate offences before the Courts can make orders.

The Act applies to "*serious offences*", defined in the Act as being those for which the maximum penalty in Vanuatu would be 12 months or more.

The *Proceeds of Crime (Amendment) Act No. 30 of 2005* extended the application of the 2002 Act to suspected terrorist assets and/or those related to offences under CTTOC. It also:

- provided broader search, seizure, production and monitoring powers for authorities when investigating or tracking suspected criminal or terrorist assets;
- established a currency reporting and seizure regime at the border, together with related offences.

Mutual Assistance in Criminal Matters Act 2002

This Act substantially updated and enhanced Vanuatu's framework for mutual cooperation in criminal investigations. The Act was amended in 2005 to make provision for the CTTOC and Proceeds of Crime Acts.

The Act permits requests from any country and does not require that requests be treaty-based. To qualify as predicate offences for the purpose of the Act, offences must carry a maximum penalty of 12 months or more imprisonment.

Dual criminality is required for requests related to offences alleged to have been committed outside Vanuatu but this is defined broadly and it is expected that the Courts would interpret this in a manner that was not unduly restrictive.

Extradition Act 2002

Under this Act the Government of Vanuatu can request and provide assistance on extradition of persons suspected of having committed criminal or terrorist-related offences.

To qualify for extradition purposes dual criminality is required and offences must carry terms of imprisonment for twelve months or more.

The Act sets out regimes for dealing with requests from four categories of countries, namely:

(i) Commonwealth countries

Under the Act, two regimes may apply to extradition requests involving Commonwealth countries. The first is the *prima facie evidence scheme* which requires that in addition to any evidentiary requirements, a court in Vanuatu must not determine that a person should be surrendered to a requesting country unless the evidence before it is such that, if the offence for which surrender is sought was committed in Vanuatu, there would be sufficient evidence to place the person on trial.

The second regime is the *record of the case scheme*. This requires that countries provide a record of the case, including a summary of relevant evidence for consideration by the competent authorities. Currently, a Schedule to the Act specifies that the record of the case scheme applies to Commonwealth countries.

(ii) South Pacific countries

Under this "*backed warrants*" regime, a court in Vanuatu must order the provisional arrest and surrender of any person for whom a court in a South Pacific country has been issued, unless it considers specified grounds (relating to fairness and interests of justice) apply.

(iii) Treaty countries

Under this regime, Vanuatu's Attorney General can make and receive requests for the extradition of persons with countries that have extradition treaties with Vanuatu. To date, the Government of Vanuatu has not entered into Extradition Treaties with any country.

(iv) Comity countries

Under the Act, the Minister of Justice (in conjunction with the Attorney General) may specify countries to be extradition countries for the purposes of the Act and the provisions of the Act that apply to extradition proceedings involving those countries.

The Act provides that any person may object to a request for surrender on the grounds that the extradition offence is a political offence; or there are substantial grounds for believing that surrender of the person is sought for the purpose of prosecuting or punishing the person because of his or her race, religion, nationality, political opinions, sex, status, or for a political offence in the requesting country; or the person may be prejudiced at his or her trial, or punished, detained or restricted in his or her personal liberty, because of his or her race, religion, nationality, political opinions, sex or status. However, these grounds are not available to the Attorney General when considering whether to decline a request for surrender.

The CTTOC (s50) provides that for the purposes of extradition or mutual legal assistance acts or omissions constituting terrorist acts are not deemed to be offences of, or connected to offences of a political character.

The Government considers that this suite of legislation fully implements the legislative elements of relevant United Nations Security Council Resolutions and Counter Terrorism instruments and arrangements.

While the Government considers that Vanuatu's legislative framework relating to counter terrorism and anti-money-laundering is comprehensive, it recognizes that there is considerable work to be done to improve the operational implementation of the legislation. For example, the Financial Intelligence Unit (FIU) attached to the State Law Office requires considerable technical assistance to ensure that it would meet standards set either by the Financial Action Task Force (FATF), or the Egmont Group, an international organization of FIU's. In late 2006 a New Zealand Police officer, provided under the auspices of the Pacific Anti Money Laundering Assistance Project (PALP) joined the FIU as a mentor. This resource has substantially enhanced the FIU's capability to detect and investigate suspected money-laundering or terrorist financing within Vanuatu's financial system.

The Government of Vanuatu would welcome any offers of technical assistance in the following areas:

- the continued development of the FIU's technical capability;
- the development of education and awareness programmes for financial institutions of AML/CFT obligations; and
- general training and capability building on counter-terrorism issues for relevant agencies such as Police, TCU, Customs and Immigration.

Executive action

Senior officials regularly report to responsible government ministers (and where necessary Cabinet) on counter terrorism and security issues. Currently no formal standing committee exists as a coordinating mechanism on counter-terrorism or security issues at ministerial or senior official level.

However, a Combined Law Agency Group (CLAG) has previously operated. This group included senior officials from air and sea port authorities, Police, TCU, Customs, immigration and Civil Aviation. A draft Memorandum of Understanding (MOU) related to the possible reactivation of CLAG is currently with Ministers for consideration. Pending approval of the draft MOU arrangements are being made for the CLAG to be reconvened as an ad-hoc inter-agency forum for the coordination of policy and operational activities of these agencies.

In addition, senior officials are currently assessing the desirability of establishing a National Security Council as a high level coordinating body for all security issues affecting government. This body would be comprised of Chief Executives of agencies with interests in security issues and relevant Ministers and would report directly to Cabinet.

In addition, at an operational level, a Combined Law Enforcement Intelligence Team (CLEIT) operates between government agencies as a forum for exchanging information or discussion on operational issues. This group meets on a quarterly basis or as required by operational events.

The Government of Vanuatu, through Ministers and senior officials plays an active role within regional and international forums on counter terrorism and security matters, but particularly the Pacific Islands Forum and its security related committees. Vanuatu is an active member of the Asia Pacific Group on Money Laundering (APG), a FATF style regional body. In 2006 Vanuatu's AML/CFT frameworks were the subject of a mutual evaluation by the APG. The resulting

evaluation report was considered and adopted by the APG membership in November 2006.

Operative paragraph 1

The Government of Vanuatu considers that it has fully implemented the financing related requirements of UNSCR 1373 (2001) at a legislative level. The CTTOC, FTRA and related legislation provide a comprehensive legislative framework for measures aimed at countering terrorist financing and money-laundering activity. However, considerable work remains to be done to develop the operational mechanisms and capability necessary to support the legislative framework. In the area of prevention or terrorist financing, a key element of this is the development of a fully functional FIU with financial investigation and analysis capability. Additional technical assistance and capability building is also required, and being sought, for associated functions in related law enforcement and border security agencies.

Subparagraph (a) — What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) to (d)?

The Government considers that the legislative framework now in place meets international standards. Its main focus in this area is twofold. Firstly, it is committed to the ongoing development of operational capability within law enforcement and border security agencies including training and resources, particularly information technology. Secondly, it recognizes the need for continuing improvements in the coordination and cooperation of agencies at a domestic and regional level.

Subparagraph (b) — What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

The CTTOC contains offences of financing terrorists, providing property or services to specified terrorist entities, and dealing with terrorist property. The maximum penalty for the most serious of these offences is imprisonment for up to 25 years and fines of up to VT 125 million. To-date no cases have been identified requiring investigation or prosecution for the offences.

Subparagraph (c) — What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

The CTTOC is the primary means by which requirements related to the freezing of terrorist accounts and assets is implemented in Vanuatu. The Act contains a mechanism (s4) by which the Minister of Justice may prescribe, by Regulation, any person or entity if (a) the United Nations Security Council has made a decision under Chapter 7 of the Charter of the United Nations relating wholly or partly to terrorism; and (b) the person or entity is identified in the decision, or using a mechanism established under the decision as an entity to which the decision relates.

The Minister of Justice has not yet exercised the power conferred under the CTTOC to prescribe persons and entities on the list administered by the United Nations Security Council's 1267 Committee to be specified persons and entities.

However, the offences provisions, including those related to terrorist-financing nevertheless apply to all terrorist groups. In addition, updated 1267 lists are distributed via the Reserve Bank to all financial institutions subject to its regulations and notified of their legal obligations regarding the freezing of suspected terrorist assets and funds. Regulated institutions and government agencies also have electronic access to publicly available Internet sources.

The Government of Vanuatu considers that the CTTOC operating in conjunction with the *Financial Transactions Reporting Act*, the *Proceeds of Crime Act* and *International Banking Act* provides comprehensive legislative coverage of the relevant United Nations freezing requirements.

Subparagraph (d) — What measures exist to prohibit the activities listed in this subparagraph?

As indicated in reference to subparagraph (b) above, the CTTOC makes it a criminal offence, punishable by a maximum penalty of life imprisonment to finance terrorists, or provide property or services to specified terrorist entities, or otherwise deal with terrorist property (punishable by a maximum of 20 years imprisonment). To-date no cases have been identified requiring investigation or prosecution for the offences.

Operative paragraph 2

Recruitment to and participation in terrorist groups

The CTTOC makes it an offence to recruit members of a terrorist group, or to participate in such a group. The maximum penalty for the offence is 20 years imprisonment and/or a fine of up to VT 100 million. To-date no cases have been identified requiring investigation or prosecution for these offences.

Supply of weapons to terrorists

The Government considers that a number of factors operate to reduce the risk of weapons being supplied to terrorists through Vanuatu. Due to its remote geographic location and limited air and sea links the risk of designated entities or associated persons manufacturing, acquiring or transporting conventional arms, WMD's or associated technology in or through Vanuatu is considered to be low. However, authorities will continue to regularly review this risk and apply resources and priority proportionate to the level of ongoing risk.

The CTTOC contains a specific offence of providing weapons to terrorists that carries a maximum penalty of 20 years imprisonment and/or fines of up to VT 100 million. In addition, the *Firearms Act No. 7 of 1987* imposes licensing requirements for the possession, purchase, acquisition, manufacture, sale, transfer or importation of firearms or ammunition. The Act expressly prohibits, except under special licence from the Commissioner of Police the manufacture, sale, transfer, acquisition or possession of automatic or semi-automatic weapons or those that discharge noxious liquids or gases.

Under the Act the Minister of Police may prohibit, except under special licence from the Commissioner of Police, the importation of certain types of firearms, parts or ammunition into Vanuatu.

Applications for licences under the *Firearms Act* are considered by the Commissioner of Police after background and security checks are conducted by applicants by Police. If applications relate to foreign nationals these checks include consultation with relevant overseas law enforcement agencies.

The Act contains a number of offences. The most serious of these carry penalties of up to 15 years imprisonment or fines of up to VT 750,000. The Act also provides police with powers to search premises or vehicles for firearms or ammunition suspected of being relevant to offences and to detain those items.

The *Explosives Act 1988* makes it an offence, unless permitted under licence issued by the Commissioner of Police, to import explosives into Vanuatu. The maximum penalty for the offence is in the case of a first offence, to a fine not exceeding VT 50,000 or to imprisonment for a term not exceeding 6 months or to both. For second or subsequent offences the maximum penalty is double such penalties.

Subparagraph (b) — What other steps are being taken to prevent the commission of terrorist acts and, in particular, what early warning mechanisms exist to allow exchange of information with other States?

Law enforcement, border security and related agencies in Vanuatu have close relationships with their counterparts in neighbouring countries. Information relevant to potential security threats is regularly exchanged between these countries on an informal basis. At a regional level, Vanuatu's Police Force can utilize regional intelligence resources available through the Pacific Transnational Crime Co-ordination Centre (PTCCC) in Suva, Fiji and through the Australian Federal Police (AFP) in Canberra, Australia. Furthermore, Vanuatu's Police/TCU has a good working relationship with law enforcement agencies in the Pacific Region and where appropriate, exchange intelligence information directly with them.

Whenever information comes into possession of Vanuatu's Government agencies that may have security implications for other countries the Government's clear policy is that this information should be passed onto relevant foreign authorities without delay.

All requests by other countries for information, regardless of their nature are promptly actioned by Government officials. To date all requests for assistance have been met in a timely manner.

Subparagraph (c) — What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph? It would be useful if States supplied examples of any relevant action taken.

The Government of Vanuatu considers that there is a very low risk of terrorists entering Vanuatu. Factors operating to reduce this risk are Vanuatu's remote geographical location, its small number of commercial air links and countries they service. Commercial air services currently operate between Vanuatu and Australia, New Zealand, Fiji, Solomon Islands and New Caledonia. The borders of those countries are closely monitored and the air and shipping carriers operating the routes are familiar with, and comply with, international standards regarding passenger processes.

The Government considers the legislation and procedures in place to meet this element of the resolution are proportionate to the level of risk. It regularly reviews risks associated with its borders and where necessary makes changes to manage those risks.

The *Immigration Act 1988* contains the main statutory provisions regulating entry of persons into Vanuatu. It has been amended a number of times in recent years to reflect changing security threats and international immigration practices. The Act makes provision for denial of entry to, and removal of persons from Vanuatu considered as security risks. The Act also imposes requirements on carriers to provide information of passengers to authorities. Authorities do not currently have provision for Advance Passenger Information (API) system to allow the screening of passenger data while flights are en route to Vanuatu.

However, in practice the current arrangements operating between carriers and authorities (where passenger information is faxed or e-mailed to authorities prior to an aircraft's arrival) allow sufficient time to identify any persons of interest. Similar processes operate in relation to commercial shipping operators.

The *Extradition Act 2002* provides effective mechanisms by which Vanuatu can make and receive requests for extradition of persons suspected of having been involved in terrorist related offences.

Subparagraph (d) — What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.

To date no terrorist acts have occurred in Vanuatu nor have any known terrorists been located in the country.

The CTTOC contains a number of new criminal offences that are directed at terrorist acts including:

- carrying out, attempting, or participating in a terrorist bombing;
- taking, or attempting to take hostages;
- attacking, attempting, or threatening to attack an Internationally Protected Person or their property;
- unlawfully seizing, attempting or threatening to seize an aircraft or ship;
- committing, attempting or threatening acts of violence at an airport;
- financing or assisting to finance terrorist acts.

The maximum penalty for the most serious of these offences is life imprisonment. The offences supplement other general offences (e.g. murder) that would also apply to criminal acts carried out by terrorists. The legislation provides these offences with extraterritorial effect and also extends criminal liability to secondary parties to offences who aid, abet or assist the commission of offences.

The *Penal Code 1988* also includes offences such as murder, attempted murder, kidnapping, etc., that would cover many acts of terrorism. Penalties for serious offences such as murder include imprisonment for up to twenty years.

Subparagraph (e) — What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

See response to subparagraph (d) above.

Subparagraph (f) — What procedures and mechanisms are in place to assist other States? Please provide any available details of how these have been used in practice.

The *Mutual Assistance in Criminal Matters Act 2002* has substantially updated Vanuatu's framework for mutual cooperation in criminal investigations. The Act was amended in 2005 to make provision for the CTTOC and Proceeds of Crime Acts.

The Act permits requests from any country and does not require that requests be treaty-based. To qualify as predicate offences for the purpose of the Act, offences must carry a maximum penalty of 12 months or more imprisonment.

Dual criminality is required for requests related to offences alleged to have been committed outside Vanuatu but this is defined broadly and it is expected that the Courts would interpret this in a manner that was not unduly restrictive. To-date, authorities in Vanuatu have made a number of requests for, and provided assistance in relation to several requests for mutual legal assistance.

Vanuatu has in place a comprehensive legislative regime relating to extradition of persons engaged in suspected criminal or terrorist activity.

Subparagraph (g) — How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc.?

The *Immigration Act 1988* imposes visa requirements for all non-citizens wishing to enter Vanuatu. The Act provides mechanisms by which the Principal Immigration Officer may deny persons entry or cancel visas after issuance on security grounds. The Act contains offences, carrying maximum penalties of up to one year's imprisonment relating to the falsification or forgery of travel documents or making misleading or false statements.

The *Passports Act 1988* contains offences relating to the falsification, forgery and use of passports and related identity papers. The maximum penalties for these offences are imprisonment for up to 5 years or to a fine of VT 100,000 or both.

The *Penal Code* also contains general dishonesty offences that would also cover these types of acts.

Operative paragraph 3

Subparagraph (a) — What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?

Vanuatu continues to participate, to the fullest extent possible in regional intelligence networks and to develop its internal intelligence capabilities. The Police (which incorporate the TCU) is Vanuatu's primary law enforcement and security

agency. For external intelligence sources the Police are heavily reliant on information channels available through the Australian Federal Police and Pacific Trans-national Crime Coordination Centre (PTCCC).

The Government recognizes the need for a long-term strategy to enhance the intelligence gathering capability of Police and TCU within Vanuatu. Technical assistance, training and secondment opportunities involving developed agencies in other countries are required for local police, customs and immigration officers to develop a sustainable level of knowledge and experience. In addition, infrastructure and resourcing issues impede the pace of this development in capability. Improved IT and communication platforms are necessary to provide many basic law enforcement tools and related training and support on an ongoing basis.

The Government is interested in pursuing any potential sources of technical assistance across a broad range of law enforcement and related border security functions.

Subparagraph (b) — What steps have been taken to exchange information and cooperate in the areas indicated in this subparagraph?

There are no restrictions on Vanuatu's ability to provide cooperation on administrative and judicial matters.

Subparagraph (c) — What steps have been taken to cooperate in the areas indicated in this subparagraph?

The Government of Vanuatu will continue to support, to the greatest extent possible, the use of bilateral and multilateral arrangements and agreements to prevent and suppress terrorist attacks and to take action against perpetrators.

Subparagraph (d) — What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?

Vanuatu is a Party to the following seven conventions and protocols relevant to UNSCR 1373 (2001):

- Convention on Offences and Certain Other Acts Committed on board Aircraft (Tokyo Convention);
- 1970 Convention for the Suppression of Unlawful Seizure of Aircraft (Hague Convention);
- 1971 Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal Convention);
- 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation;
- 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA);
- 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection (Plastic Explosives Convention);
- 1999 International Convention for the Suppression of the Financing of Terrorism (Financing Terrorism Convention).

In December 2005, Vanuatu deposited its Instrument of Accession to the United Nations Convention Against Transnational Organized Crime (Palermo Convention).

Subparagraph (e) — Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph.

See subparagraph (d) above. The Government of Vanuatu is considering accession to the remaining counter-terrorism conventions and protocols relative to other domestic and international priorities.

Subparagraph (f) — What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

There have been no instances of persons entering Vanuatu have claimed, or sought to claim, refugee status.

Due to its remote geographical location, limited commercial air and sea links (serviced largely from Australia, Fiji and New Zealand), the Government considers the risk of persons entering Vanuatu and claiming refugee status to be low.

All persons, except EU and Commonwealth nationals who are non-citizens of Vanuatu require a visa to enter the country. All visas are issued in Vanuatu by the Immigration Department. Consular offices do not carry out this function.

Visas are valid for an initial period of 30 days and may be extended for a further maximum period of 30 days. Non-citizens wishing to remain in Vanuatu beyond this period must apply for residency. Persons residing in Vanuatu for 10 years or more are entitled to apply for a passport issued by the Government of Vanuatu. Holders of Vanuatu passports are not permitted to hold dual citizenship. Passports are valid for a period of 5 years with a right of renewal for a further 5 years. Where it is considered necessary, applicants for visas and passports are subject to security checks that are conducted by immigration officials and police. A liaison officer from the TCU is located within the Department of Immigration. Background/security checks on applicants are conducted by the TCU utilizing internal resources and those available through the PTCCC and AFP channels.

The *Immigration Act* contains mechanisms related to prohibitions on entry or removal of persons considered to be undesirable immigrants.

Section 15 of the Act confers broad powers on the Minister of Immigration to declare persons, or classes or persons to be undesirable immigrants for the purposes of the Act. The Minister may declare any person to be an undesirable immigrant, prior to their entry into Vanuatu or within 2 years thereafter, if based on information received from any government through official or diplomatic channels, or from any other source deemed by the Minister in his discretion to be reliable, he considers them to be an undesirable immigrant.

In addition, the Minister may declare any person who is a member of any class or group of persons declared by the Minister to be a prohibited class for the purposes of Section 15 to be an undesirable immigrant.

Under the Act such persons are deemed to be prohibited immigrants are not entitled to enter or remain in the country.

The powers under Section 15 could be relied upon to deny entry to persons into Vanuatu who the Government considered to be a potential security threat.

Subparagraph (g) — What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

The Government considers that there is a low risk of terrorists claiming refugee status in Vanuatu. However, mechanisms do exist that permit authorities to make appropriate inquiries to confirm the bona fides of any claimant. Where it is considered that any immigrant (including potential refugee claimants) may present a risk to Vanuatu's security authorities are empowered to deny them entry into, or remove them from the country under the *Immigration Act*.

The *Extradition Act* provides that any person may object to a request for surrender on the grounds that the extradition offence is a political offence; or there are substantial grounds for believing that surrender of the person is sought for the purpose of prosecuting or punishing the person because of his or her race, religion, nationality, political opinions, sex, status, or for a political offence in the requesting country; or the person may be prejudiced at his or her trial, or punished, detained or restricted in his or her personal liberty, because of his or her race, religion, nationality, political opinions, sex or status. However, these grounds are not available to the Attorney General when considering whether to decline a request for surrender.

Operative paragraph 4

The Government has not signed the United Nations *Convention against Transnational Organised Crime 2000 and related Protocols against the Smuggling of Migrants and Trafficking of Persons* but is considering whether to adopt these relative to other international and domestic priorities. The CTTOC criminalizes activities required by the United Nations Transnational Organised Crime Convention and related Protocols against the Smuggling of Migrants and Trafficking of Persons.

The CTTOC and *Penal Code* makes it an offence to conspire or attempt to commit the substantive offence and extends liability to secondary parties as well as principal offenders.

The Government considers that there is a low risk that acts of migrant smuggling or people trafficking would occur in Vanuatu given its relatively remote location, the limited commercial air and sea services and the high level of border controls in the countries from which carriers operate. It considers that the offence regimes contained in the CTTOC and Penal Code satisfy the requirements in operative paragraph 4.

Conclusion

The Government of Vanuatu is fully committed to meeting all of its obligations under UNSCR 1373 (2001) and to support and contribute, to the greatest extent possible, the international campaign against terrorism and associated criminal

activity. The Government considers that it has a comprehensive legislative framework in place to meet all requirements of the resolution and is continuing to develop robust supporting operational mechanisms to fully implement all relevant requirements. The Government is actively seeking any available technical assistance to develop this operational capability and to enhance, if necessary legislative measures.